

Serial No. 10/088,299  
Amendment dated July 20, 2004  
Reply to Office Action of May 20, 2004

REMARKS

The application includes claims 1-28. Claims 1-3, 7-10, 13-19, and 23-25 are currently amended. Reexamination and reconsideration of the application are respectfully requested.

According to the Office Action, Claims 26-28 are allowed and claims 2-5, 9-11, 13, and 23-25 would be allowable if rewritten in independent form to include the limitations of the base claim and all intervening claims. Claims 2-5, 9-11, 13, and 23-25 have been so rewritten and their allowance is respectfully requested.

Claims 1, 6-8, 15, 18, and 20-22 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,776,333 issued to Plester, et al. (the Plester '333 patent). This rejection as applied to amended independent claim 1 is respectfully traversed.

In response to Applicant's arguments filed March 25, 2004, the Office Action states that the claims require that the heater be within a treatment housing. Also, the Office Action states that the treatment cartridge of the Plester '333 patent is located within a housing and that the Applicant did not describe the heater in claim one as being within a treatment cartridge. Furthermore, the Office Action regards the limitation of the water contacting the "heat exchanger" as a limitation that fails to provide additional structure to the apparatus.

The Plester '333 patent discloses a water treatment system for use with a post-mix beverage dispenser. In one embodiment of the Plester '333 patent illustrated in Fig. 1, the heater is an electric heater (6) inserted into a cavity (5). The position of the cavity (5) outside the wall of the cartridge (1) can be seen in Fig. 5. In the interior of the cartridge (1), water is treated. There is no water in the cavity (5) and no water in direct contact with the heater (6). This arrangement allows the cartridge (1) to be insertable on and readily removable from the heater (6).

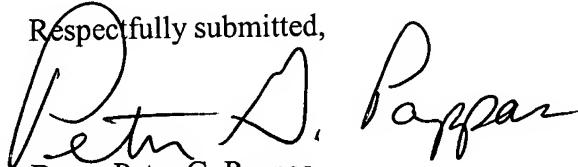
In contrast, amended independent claim 1 describes a water treatment apparatus comprising a heater within a treatment cartridge to come into direct contact with the water. The fact that the water contacts the heater particularly points out the arrangement of the apparatus and provides additional structure to claim 1. Since the heater comes in contact with the water, the treatment cartridge does not require a cavity for the heater. For further clarification, claim 1 has been amended to describe the heater as being disposed in a water treatment cartridge.

Dissimilarly, the Plester '333 patent only discloses permanent heaters requiring separation from the water with the use of the cartridge (1) having the cavity (5). The treatment cartridge of the Plester '333 patent does not include a heater disposed in the treatment cartridge along with a filter. Therefore, amended claim 1 describes novel subject matter because it describes a treatment cartridge that includes both a heater and a filter disposed therein and does not require a cavity separating the heater from the water.

Furthermore, there is no suggestion in the Plester '333 patent for elimination of the cavity (5) from the cartridge (1) and placement of the heater (6) within the cartridge where the water is treated. Also, there is no reasonable expectation of success for such modifications, as the Plester '333 patent requires the presence of the cavity (5) for removal of the cartridge (1) from the permanent heater (6) and separation of the heater (6) from the water. Moreover, the Plester '333 patent does not teach all of the claim limitations, which include contact of the heater with the water and the use of a disposable heater. Rather, the Plester '333 patent teaches away from this arrangement by specifying that the cartridge (1) have a cavity (5) into which the heater (6) is placed and separated from the water. Therefore, no *prima facie* case of obviousness has been established with regard to claim 1 which describes non-obvious subject matter. The allowance of amended independent claim 1 is therefore respectfully requested.

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The foregoing is submitted as a full and complete response to the Office Action and the allowance of all claims is respectfully requested. If there are any issues which can be resolved by a telephone conference or an Examiner's Amendment, the Examiner is invited to call the undersigned attorney at 404.853.8064.

Respectfully submitted,  
  
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